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Statements by officials of the Sanitary district...

Toronto

1923

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STATEMENTS BY OFFICIALS

OF THE

SANITARY DISTRICT OF CHICAGO

RESPECTING THE

DIVERSION OF WATER FROM THE GREAT LAKES

EXPOSED AND REFUTED

BY

SIR ADAM BECK

TORONTO
OCTOBER—1923

Gift of
The Hydro-Electric Power Commission
11-23-23

STATEMENTS BY OFFICIALS
OF
THE SANITARY DISTRICT OF CHICAGO

EXPOSED AND REFUTED
BY
SIR ADAM BECK

IN accordance with an announcement which some time previously had been made in the public press, a special delegation representing the Sanitary District of Chicago and under the Chairmanship of President William J. Healy, formally appeared on September 19, 1923, before certain Commissioners of the Harbour Board of the City of Toronto.

In the account of this meeting appearing in the Toronto daily papers it is stated that the Harbour Commissioners intimated to the visiting delegation that certain matters involved in the subject under discussion were matters which came under the jurisdiction of the Hydro-Electric Power Commission of Ontario.

On September 20, 1923, in response to a request from the officials of the Sanitary District for an opportunity for them to make certain representations, an informal meeting was held in the head office at Toronto of the Hydro-Electric Power Commission of Ontario, at which Mr. W. J. Healy, President of, Mr. E. D. Adcock, Counsel for, Mr. G. M. Wisner and Mr. L. K. Sherman, Engineers for the Sanitary District, and other officials from Chicago were present. Every opportunity was afforded the visitors to present their various statements and such comments as seemed relevant to the discussions were made by several persons present at the meeting.

It was immediately following the Toronto meeting of the 20th of September and on the same day, that President Healy issued a formal statement to the public press which is of such an extraordinary nature and which creates an impression at such variance with

INTENTIONAL SECOND EXPOSURE

Gift of
The Hydro-Electric Power Commission
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CR Dec. 4, 1922
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It was immediately following the Toronto meeting of the 20th of September and on the same day, that President Healy issued a formal statement to the public press which is of such an extraordinary nature and which creates an impression at such variance with

the facts that it is necessary in the public interest for me to refute the misleading statements which have been thus published. The need for such action is emphasized by the fact that various statements contained in President Healy's formal Statement continue to be reproduced in the public press, not only of the Dominion of Canada, but also of the United States.

I shall deal with the misleading features of Mr. Healy's statement in the order in which they occur.

Visiting Delegation Not Taken Unawares

> Mr. Healy states, "upon the morning of our arrival here we found that Sir Adam Beck, Chairman of the Hydro-Electric Power Commission, representing the power interests of the Province of Ontario, and a subordinate use of water, had attacked and prejudged the right of the Sanitary District of Chicago to use a small percentage of the water of the Great Lakes for the primary and superior purpose, sanitation and public health."

I have issued but one statement in connection with this subject and this was issued on August 11, 1923, appearing in the daily papers of that date. Communications from Chicago received prior to the arrival of the Sanitary District officials prove that my statement was within their knowledge and a copy in their possession at least a fortnight before their September visit to Toronto. Mr. Healy, however, is, apparently, content to create the inexcusable impression that the delegation only found out *upon the morning of our arrival* that a statement had been issued by me, and that consequently the delegation was forced upon a course it had not contemplated. This charge is baseless.

Harbour Board Did Not Accept Proposals

> Mr. Healy states, "in our meeting yesterday, with the Harbour Commissioners of Toronto we found the consensus of opinion of the Commissioners to be that the remedial works we propose to construct at the outlets of Lakes Erie and Ontario will entirely satisfy them."
>
> Mayor Maguire of Toronto, after communicating officially with

the Harbour Commissioners of Toronto states as follows:

> "Respecting the statement attributed to Mr. Healy, President of the Sanitary District of Chicago, made when in Toronto a few weeks ago, I have to advise you that I took this matter up with the members of the Board of Harbour Commissioners in the presence of the Board of Control, and they stated emphatically that they did not concur in the plans of the Sanitary District of Chicago"

Treaty Priorities Not in Dispute

> Mr. Healy states, "we find the remarkable situation of the last use—water-power—versus the first use—public health—and the contention presented that the subordinate use should take precedence over the superior or primary use outlined by the Treaty," and with particular emphasis it is stated, "for the first time, we found the desire of any public body to place the use of water for the generation of electricity ahead of the paramount use for sanitation and public health as laid down by the Treaty."

Words could scarcely be more misleading. In the first place, the question of priority of use of water, as specified in the Treaty, was not questioned. The subject was mentioned, but as the order of priority is so clearly stated in the Treaty, there is no basis for argument. This fact was accepted by all present. The stand which I take in this matter is that when the Treaty specifies "sanitary" use it does not, in my judgment, contemplate the absolute abstraction of water from the Great Lakes system wholesale, to the extent of 10,000 cubic feet per second, for the diluting of raw sewage and for then diverting the mixture into the Mississippi river—an entirely different watershed. This use is such an abnormal one that I contend that it is illegal and certainly it is not provided for in the Treaty.

No Engineering Organization Constituted

Mr. Healy states:

> "However, the result of our conference with Sir Adam Beck and his Commission was an expression of willingness on his part that the great questions involved in the composing and harmonizing of the various interests should not be decided by the mere fiat of the Chairman of the Commission, but by conference, study and investigation of eminent engineers, representing the Hydro-Electric Power Commission of Ontario, and those of the Sanitary District of Chicago."

This statement also is incorrect and very misleading. At the close of the meeting, it was asked by Sanitary District officials if the Hydro-Electric Power Commission would be willing, later on, to have its engineers look over certain plans of proposed remedial works for the regulation of lake levels prepared by the Sanitary District engineers and receive from the Sanitary District engineers such information and explanation as might be necessary for a proper understanding of the plans. I stated that our engineers would be ready to look over the plans, but nothing further was suggested and certainly nothing further was intimated or intended by me in this connection. It is entirely misleading to suggest, as Mr. Healy does, that the subject of diversion at issue is to be submitted to study and investigation by a group of engineers, including representatives of the Hydro-Electric Power Commission.

Mr. Healy added that no doubt I was forced to this "recession" from my former attitude because I had found out that "twenty States along the Mississippi, Missouri and Ohio rivers will not permit Sir Adam's Commission to have additional water at Niagara unless Chicago's health and navigation along the Illinois and Mississippi rivers are safeguarded." Prior to the meeting with the Sanitary District officials, I had no knowledge of the attitude of the twenty States referred to, nor have I any knowledge at this time other than the casual comment with regard to this matter, dropped by one of the speakers in the course of discussion. The purported fact had no influence upon me whatsoever, and I have yet to learn, authoritatively, that any of the twenty States in the territory referred to has signified its intention to obstruct any application that the Province of Ontario may make. The Province, so far as I am

aware, has not made any application for the diversion of additional water. I do know, however, that there are States which have officially and very strongly protested against the Chicago diversion.

The necessity for a specific refutation of the statement of Mr. Healy respecting an engineering conference is evident from the fact that in one form or another it has been repeated many times in the public press. Thus, the *Chicago Journal,* as recently as September 28, 1923, under the caption "Engineers May Fix Chicago's Lake Rights," states:

> "Sir Adam Beck, chairman of the Ontario commission, accepted a proposal of George M. Wisner, consulting engineer of the sanitary district, 'that the questions relating to the effect of remedial works proposed by the sanitary district upon the hydro-electric power production at the Niagara falls and in the St. Lawrence river should be left to engineering experts representing the two bodies to investigate thoroughly and then report.'"

The statement thus published is incorrect and has been made by some one who either does not understand the facts or whose intention it is to mislead. I did not authorize, nor in any way concur in any arrangement by which our engineering experts were either to "investigate thoroughly" or to "report" upon any proposal for remedial works or upon any other suggestions made by the Sanitary District of Chicago. It was upon the earnest solicitation of the Sanitary District officials and, one may add, on the basis of common courtesy, that I, as previously explained, stated my willingness to afford the officers of the Sanitary District of Chicago an opportunity to explain the engineering features of their plans.

Great national and international interests, such as navigation with all the complicated questions respecting water levels in the harbours, and water powers, as well as the rights of riparian owners too numerous to specify, are involved in such proposals as have been made by the Sanitary District officials, and it is obviously absurd to suggest that the engineers of one or two of the interests could, as the *Chicago Journal* states, "fix Chicago's lake rights."

The Hydro-Electric Power Commission's interest from the standpoint of water power is in Canada's share of the surplus waters —that is, the waters not required for navigation purposes—of the

international waters constituting the southerly boundary of the Province of Ontario.

The Hydro-Electric Power Commission has sought no negotiations in connection with this subject, it being recognized that the federal Governments of both countries are the prime interests involved. The Hydro-Electric Power Commission is chiefly interested in the maintenance of the integrity of the rights which the Province of Ontario has in the water powers of the international waters from which Chicago has made so substantial and damaging a diversion to the injury of all important interests excepting the Sanitary District itself.

Many Governmental and Other Interests Protest Against Chicago's Illegal Diversion

Representation has been made through the public press to the effect that the opposition to the illegal diversion of water from the Great Lakes system by the Sanitary District of Chicago is chiefly from the Chairman of the Hydro-Electric Power Commission. To this I wish to give the most emphatic denial. Time and again, the Government of Canada has made representations to the Federal authorities at Washington, protesting against the Chicago diversion. Various interests representing the commercial activities of the Dominion have been behind the Dominion Government in its protest. Such organizations as the Dominion Marine Association, the Shipping Federation of Canada comprising the great Atlantic shipping lines, the Harbour Commission of Montreal, the Harbour Commission of Toronto, the Richelieu and Ontario Navigation Company, Canadian water power interests, Boards of Trade throughout the Dominion including the Montreal Board of Trade, and many other organizations have, during past years, publicly filed memorials against the action of the Sanitary District of Chicago in diverting the Great Lakes waters from their natural channel to the Mississippi river. In the United States protests have been filed by corresponding organizations.

It is common knowledge that State authorities in the United States, notably, those of Wisconsin, have instituted actions in

the courts against the Sanitary District of Chicago respecting its diversion. An associated press dispatch from Madison, Wisconsin, of October 2, 1923, states:

> "Following conferences in Washington Monday, between attorneys-general of Minnesota, Wisconsin, Ohio, Michigan and Pennsylvania and Solicitor General Beck, it was announced today that these five states will join with the federal government in an action before the Supreme Court to restrain the sanitary district of Chicago from excessive diversion of water from the great lakes, according to word received here.
>
> "Attorney-General Ekern represented Wisconsin in the conferences, which is taken by the attorney-general's department here to mean that the original action commenced by Wisconsin will have the united backing of states surrounding the great lakes."

It is clear, therefore, that as Chairman of the Hydro-Electric Power Commission, I am not, as has been represented, the only, nor the chief, objector to this diversion. The voice raised on behalf of the associated municipalities of Ontario accords with the chorus of protest that, from all quarters, has been raised against this illegal Chicago diversion.

No Treaty Provisions for Diversion by Chicago

Accompanying the press report of the statement by Mr. Healy was a news statement, reading as follows:

> "The fact is," said Sir Adam, "you are diverting 10,000 cubic feet per second and doing it without the consent of the Dominion of Canada."
>
> "We say quite the contrary," replied the Chicago spokesman, "We say we have the sanction of the Treaty."
>
> Sir Adam—"With Great Britain, yes. We have no record in this country of Canada being a party to or consenting to the diversion of the water."
>
> Mr. Adcock—"We think you have."

Considered apart from the portion of the discussion in which the comments just quoted were made, they are apt to convey a wrong impression. It might appear, for instance, that I had suggested that the Treaty with Great Britain—the Boundary Waters Treaty of 1909—is not fully binding upon Canada. Nothing could be farther from my intention.

The Chicago Sanitary District officials were contending that they had the right to divert 10,000 cubic feet of water per second and I had maintained that this diversion was being made without the consent of the Dominion of Canada. The Counsel for the Sanitary District took the contrary position, remarking, "We say we have the sanction of the Treaty."

In the discussion it was incidentally pointed out by the Attorney-General of Ontario, Hon. W. F. Nickle, that matters not specifically defined in the Treaty, but for which the claim is made that they fall within its scope would depend for their validity or establishment upon a construing of the wording of the Treaty itself; and I took occasion to emphasize the fact that the only Treaty which bore upon the discussion was the Treaty with Great Britain, that is, the Boundary Waters Treaty of 1909. Thus it was, when Counsel Adcock said, "we say we have the sanction of the Treaty," I contended that there could be no such sanction because there is no reference whatsoever in the Treaty—the Boundary Waters Treaty—to the Sanitary District of Chicago or to any provision for the diversion of water by it from the Great Lakes to the Mississippi river.

Chicago's Secret is Disclosed

At the meeting of the 20th of September it was disclosed that the secret of Chicago's opposition to changing its method of sewage disposal for that portion of its population now served by the Chicago Drainage Canal—Chicago is treating its sewage by other methods for other portions of the territory of the Sanitary District—is that it would cost, according to statements made by Sanitary District officials, about $100,000,000 to make the additional changes, and it was added that Chicago did not see its way clear for twenty-five years ahead to incur such an expense. The secret, to use the words of one

of the Sanitary District officials, is "simply a matter of dollars and cents."

Canada's Advantage More Apparent Than Real

Under the Boundary Waters Treaty of 1909, provision is made for a diversion from above the Falls at Niagara in Canada of 36,000 cubic feet of water per second and in the United States of 20,000 cubic feet per second. There is here a difference of 16,000 cubic feet. The Sanitary District officials contend that within this difference lies a provision for 10,000 cubic feet of water for the Chicago diversion. At the recent meeting on the 20th of September, I particularly pointed out that this difference was not so accounted for, but was accounted for by the fact of electrical energy being generated by water on the Canadian side and exported into the United States. Prior to the Treaty of 1909, arrangements had been made by the United States authorities contemplating the importation into the United States of 160,000 horsepower. At times, the United States has been importing larger quantities even than this. The water equivalent of the electrical energy thus contemplated for import by the States is about 12,000 cubic feet of water per second. Taking this into consideration would make the proportions stand as 20,000 + 12,000 = 32,000 cubic feet per second of benefits for the United States, and at 36,000—12,000 = 24,000 cubic feet per second of benefits for Canada. In other words, on this basis the United States —even ignoring the Chicago diversion—would be receiving benefits from 32,000 cubic feet of water per second, while Canada would only receive the benefit from 24,000 cubic feet per second.

That this is not a new view improvised for the present circumstances is abundantly clear from the fact that the difference in the Treaty amounts of the diversion on either side of the Boundary is specially referred to in a Report published twelve years ago—in 1911—by the Dominion Government, on the *Water Powers of Canada*, by Mr. Arthur V. White, Consulting Engineer to the Commission of Conservation of Canada. Referring to various preliminary discussions preceding the determination of the terms of the Boundary Waters Treaty as finally adopted and assuming the possibility of a diversion of 10,000 cubic feet of water per second by Chicago, it is shown that instead of Canada having the advantage, the pre-

ponderance of advantage would unmistakably lie with the United States in the proportion of forty-two for the States to twenty-four for Canada—a condition which, accepting the doctrine of equal benefits underlying the Treaty, is untenable. Mr. White's statement, as published in 1911, is as follows:

> "Considering the plants on both sides of the river at Niagara Falls, it takes about .075 cubic feet of water per second to develop one electrical horse-power. On this basis, therefore, the 160,000 horse-power to be imported into the States from Canada is equivalent to about 12,000 cubic feet of water per second. This quantity, with the 10,000 cubic feet per second, diverted by the Chicago Drainage Canal, and the 20,000 cubic feet per second, allotted under the International Boundary Waters Treaty, in effect, gives the States benefits from the use of about 42,000 cubic feet of water per second. Compared with this 42,000, Canadians would have for use in their own country, benefits from about 24,000 (viz. 36,000—12,000) cubic feet of water per second. This will explain the pertinence of a remark such as was made by the United States section of the Commission to the effect that in the amount of the waters diverted on the Canadian side, Canada's *'advantage is more apparent than real.'*"

Jurisdiction Lies With Government Authorities

In conclusion, I wish to emphasize that, in my introductory remarks to the officials of the Sanitary District of Chicago at the meeting herein referred to, I particularly pointed out that the issues which they sought to deal with were not those falling under the jurisdiction of the Sanitary District of Chicago and the Hydro-Electric Power Commission—an organization constituted by special Act of the Legislature of the Province of Ontario. I emphasized the many other interests involved, such as the Province of Ontario itself, the Province of Quebec, the State of New York and other States of the Union, as well as the Governments of the two great countries whose interests are covered by the Boundary Waters Treaty.

While the Commission was ready to receive the delegation from Chicago upon its urgent request, yet it was made very clear that the issue under discussion was not any local issue between the City of Chicago and the Hydro-Electric Power Commission of Ontario. The issue results from action on the part of the Sanitary District of

Chicago, an action which has adversely affected the citizens at large of both the Dominion of Canada and of the United States, and consequently will have to be dealt with by the accredited representatives of the two countries.

The so-called remedial proposals of the Sanitary District of Chicago are entirely inadequate to remedy the situation which they have created. This is true, if for no other reason than the fact that remedial works can never compensate the lowered levels of the St. Lawrence river below the proposed works, nor can they compensate for the serious damage occasioned to the port of Montreal. With respect to the effect of proposed remedial works upon water powers of the Niagara and St. Lawrence rivers, I repeat what I said in my published statement of August the 11th.

> "The feature which cannot be too strongly emphasized is that it is impossible for the Chicago Sanitary District or any other agency to do anything by means of the regulation of levels of the Great Lakes to compensate the Dominion of Canada for its loss in the international waters which Chicago is diverting. *No matter what is done in the way of compensating for levels, after the compensation is accomplished 10,000 cubic feet of water per second diverted from the Great Lakes could be restored to the Great Lakes and rivers and contribute, as an addition, all the benefits derivable from such quantity of water.*"

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